

## **NATURAL RESOURCES CONSERVATION SERVICE (NRCS)**

### **Legislative Authorities**

#### **I. Role of Office of General Counsel (OGC)**

The General Counsel is chief legal advisor to the Secretary and other officials of the Department. 7 CFR 2.31. OGC is responsible for providing legal services for all activities of the Department. There are over 200 attorneys in 4 regional offices, 13 field offices, and 12 Divisions in Washington, D.C. Natural Resource Conservation Service state and field office contacts are primarily with the OGC regional and field offices. OGC regional and field offices refer matters to OGC Washington as appropriate. In Washington, the General Law Division provides legal services to the Department and all agencies regarding laws of general applicability, including the Freedom of Information Act (FOIA), the Federal Advisory Committee Act (FACA), procurement, federal assistance (grants and agreements), contract debarments, ethics, and many others. The Associate General Counsel for Natural Resources is responsible primarily for providing legal services to the Forest Service, through the Natural Resources Division, and to the Natural Resources Conservation Service, through the Conservation and Environment Division, concerning laws and other legal matters specific to those agencies' program authorities.

We recommend that initial contacts to OGC by NRCS state and field office staff regarding issues arising related to partnerships and cooperative authorities be made to the regional and field OGC offices with which they have a working relationship or, coordinated through respective NRCS Regional Assistant Chiefs, to the Assistant General Counsel, Conservation and Environment Division, in Washington, D.C.

#### **II. Accountability**

The NRCS accountability system provides accurate and timely information for agency managers without imposing an excessive reporting burden on front-line employees. The NRCS Integrated Accountability System (IAS) is both web-based and location-based and provides real time information on agency budget, performance, and results. Anyone can access NRCS performance and results information by clicking on the Accountability tab on the [www.nrcs.usda.gov](http://www.nrcs.usda.gov) web-site.

The 2002 Farm Bill is historically the largest federal investment in the soil, water, and other natural resources associated with private working lands. This investment generated a major increase in conservation technical assistance workload. The accountability system gave the agency a firm foundation of accurate information on which to address the magnitude of the 2002 Farm Bill and the provisions for the use of local government and private technical assistance providers. To meet these demands, NRCS is making full use of the IAS to improve efficiencies and effectiveness.

Improvements continue in integrating budget and performance, both in the design of performance measures and in the data collection and presentation applications:

- Results-oriented performance and efficiency measures have been identified by program. This will allow the agency to more directly identify costs for budget and performance integration, in part, through identification and alignment of activities and the program-specific performance measures.
- NRCS' full cost of programs model estimates technical assistance program costs based on information in the IAS. The full cost of programs model is being updated during FY 2006 with current activity costing data. Model runs proved useful in planning the efficient roll out of the 2002 Farm Bill programs and articulating the full costs of technical assistance.
- During FY 2005, the Performance Results System (PRS) was further integrated with other web-based field office tools; it will be able to directly extract conservation practice information from ProTracts, the agency's web-based conservation program contract tool. Directly retrieving data from the primary planning tools reduces the workload on field staff and provides a more accurate accounting of the work accomplished.
- ProTracts tracks funds allocated and obligated in a customer's cost-share agreement. ProTracts was implemented for new contracts in EQIP, WHIP, AMA, and CSP in Fiscal Year 2004. In FY 2005 contract data was added for all existing active program participant contracts in EQIP.
- During FY 2005, NRCS completed implementation of a web-based Program Operations Information Tracking System (POINTS) for the Watershed Program. POINTS streamlines performance reporting and provides easily accessible program reports. In FY 2006, the Resource Conservation and Development program will be integrated into the POINTS application.

### **III. Partial List of NRCS Programs**

#### **Agricultural Management Assistance Program**

Authority: 7 U.S.C. 1524(b) (section 524(b) of Federal Crop Insurance Act, as added by section 133(b) of the Agriculture Risk Protection Act of 2000, Pub.L. 106-224, 114 Stat. 387, and amended by section 2501 of the Farm Security and Rural Investment Act of 2002, Pub.L. 107-171)

Summary: Technical and financial (cost share) assistance to producers in certain designated states (where participation in federal crop insurance has been low) to construct or improve watershed management structures or irrigation structures; plant trees for windbreaks or for water quality improvement; or to mitigate financial risk through production diversification or resource conservation, including soil erosion control, integrated pest management, or transition to organic farming.

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### **Conservation Innovation Grants (CIG)**

Authority: Section 1240H of chapter 4, subtitle D, Title XII of the Food Security Act of 1985, 16 U.S.C. 3839aa-8. CIG is authorized as a part of EQIP.

Summary: Grants to governmental and nongovernmental organizations and persons for projects that involve producers who are eligible for EQIP and stimulate innovative approaches for environmental enhancement in conjunction with agricultural production, such as credit/market systems for pollution reduction and carbon sequestration practices, and that leverage EQIP funds with funds from State and local government and private organizations.

### **Conservation of Private Grazing Land Program**

Authority: Section 1240M of chapter 5, subtitle D, Title XII of the Food Security Act of 1985, 16 U.S.C. 3839bb. (Originally authorized by section 386 of the Federal Agriculture Improvement and Reform Act of 1996, Pub.L. 104-127.)

Summary: Provides voluntary technical assistance to owners of grazing lands for resource planning, and the evaluation and application of conservation practices.

### **Conservation Security Program (CSP)**

Authority: Title XII, subtitle D, chapter 2, subchapter A of the Food Security Act of 1985, 16 U.S.C. 3838-3838c, as added by the Farm Security and Rural Investment Act of 2002, Pub.L. 107-171.

Summary: Provides technical and financial assistance to producers who advance the conservation of soil, water, air, energy, water, plant and animal life, and other conservation purposes on tribal and private agricultural lands.

### **Conservation Technical Assistance (CTA) Program**

Authority: Pub.L. 74-46, 49 Stat. 163, 16 U.S.C. 590a-590f, 590q

Summary: Technical assistance for protection of public and private land resources against soil erosion and related resource damage.

### **Emergency Watershed Protection (EWP) Program**

Authority: Section 216 of Pub.L. 81-516, 33 U.S.C. 701b-1; and section 403 of the Agricultural Credit Act of 1978, Pub.L. 95-334, 16 U.S.C. 2203, as amended by section 382 of the Federal Agriculture Improvement and Reform Act of 1996, Pub.L. 104-127, 110 Stat. 888, 1016.

Summary: Technical and financial assistance, including purchase of floodplain easements, for emergency flood control measures to protect watersheds affected by natural disasters;

**Environmental Quality Incentives Program (EQIP)**

Authority: Title XII, subtitle D, chapter 4 of the Food Security Act of 1985, 16 U.S.C. 3839aa-3839aa-9, as added by section 334 of the Federal Agriculture Improvement and Reform Act of 1996, Pub.L. 104-127, 110 Stat. 888, 997-1002, 1007, and amended by section 2301 of the Food Security and Rural Investment Act of 2002, Pub.L. 107-171.

Summary: Technical and financial assistance to farmers/ranchers to protect/improve soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat; replaced the Agricultural Conservation Program, Colorado River Basin Salinity Control Program, Great Plains Conservation Program, and the Water Quality Incentives Program.

**Farm and Ranch Land Protection Program (FRPP)**

Authority: Title XII, subtitle D, chapter 2, subchapter B of the Food Security Act of 1985, as added by section 2503 of the Food Security and Rural Investment Act of 2002, Pub.L. 107-171, 16 U.S.C. 3838h-3838i. (Originally authorized by section 388 of the Federal Agriculture Improvement and Reform Act of 1996, Pub.L. 104-127, 110 Stat. 888, 1020-1021.)

Summary: Secretary authorized to purchase conservation easements or other interests in lands (170,000-340,000 acres) with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting the topsoil from conversion to nonagricultural uses.

**Farmland Protection Policy Act**

Authority: 7 U.S.C. 4201 *et seq.*

Summary: Provide policy and criteria for the conservation of farmland.

**Grassland Reserve Program (GRP)**

Authority: Title XII, subtitle D, chapter 2, subchapter C of the Food Security Act of 1985, as added by section 2401 of the Food Security and Rural Investment Act of 2002, Pub.L. 107-171, 16 U.S.C. 3838n-3838q.

Summary: Provides technical assistance and funding to states administering rental or conservation easement programs to private landowners.

**Healthy Forest Reserve Program (HFRP)**

Authority: Title V of the Healthy Forest Restoration Act of 2003, Pub.L. 108-148, 117 Stat. 1911, 16 U.S.C. 6571-6578.

Summary: Enrollment of private lands through use of easements (30 year or not more than 99 year) or 10 year cost-share agreements to promote recovery of threatened or endangered species, improve biodiversity, and enhance carbon sequestration. If conservation activities on enrolled land result in net benefit for listed, candidate, or other species, the Secretary shall make available to the landowner safe harbor or similar assurances under sections 7(b)(4) or 10(a)(1) of the ESA.

**Highly Erodible Land and Wetland Conservation**

Authority: Subtitles A, B, and C, Title XII of the Food Security Act of 1985, 16 U.S.C. 3801 *et seq.*

Summary: Highly erodible land and wetland conservation requirements as conditions of eligibility for USDA program benefits.

#### **Land Inventory and Monitoring Program**

Authority: 7 U.S.C. 1010a

Summary: Conduct inventory of soil, water, and related resource conditions

#### **Resource Conservation and Development (RC&D) Program**

Authority: 7 U.S.C. 1010 and 1011; 16 U.S.C. 590a-590f, 590q, and Title XV, subtitle H of the Agriculture and Food Act of 1981, as amended by section 2504 of the Food Security and Rural Investment Act of 2002, Pub.L. 107-171, 16 U.S.C. 3451-3460.

Summary: Technical and financial assistance to local governments and organizations for conservation and development of land and related natural resources of rural areas.

#### **Rural Abandoned Mine Program (RAMP)**

Authority: Section 406 of the Surface Mining Control and Reclamation Act of 1977, Pub.L. 95-87, 30 U.S.C. 1236

Summary: Technical and financial assistance under contracts with landowners to reclaim abandoned surface coal mine sites in rural areas.

#### **Rural Clean Water Program**

Authority: Section 208(j) of the Clean Water Act, as added by section 35 of Pub.L. 95-217, 33 U.S.C. 1288(j)

Summary: Technical and financial assistance to rural landowners to implement Best Management Practices to reduce agriculture-related nonpoint source water pollution.

#### **Snow Survey Program**

Authority: 16 U.S.C. 590a-590f, 590q; Reorganization Plan No. IV of 1940, 5 U.S.C. App.

Summary: Conduct snow surveys and make water supply forecasts.

#### **Soil and Water Resources Conservation Assistance**

Authority: Section 211(b) of the Agriculture Risk Protection Act of 2000, Pub.L. 106-224, 16 U.S.C. 3830 note

Summary: Provide financial (cost share and incentives) and technical assistance to farmers and ranchers to implement natural resource conservation practices in areas that are not designated as priority areas under section 1230(c) of the Food Security Act of 1985 (16 U.S.C. 3830(c))

#### **Soil and Water Resources Conservation Program**

Authority: Soil and Water Resources Conservation Act of 1977, Pub.L. 95-192, 16 U.S.C. 2001-2009

Summary: Conduct national appraisal of soil, water, and related resources and other measures to promote conservation. Appraisal and report to be prepared on 5-year intervals.

**Soil Survey Program**

Authority: 16 U.S.C. 590a-f, and q; 42 U.S.C. 3271-3274

Summary: Preparation and distribution of soil surveys.

**Watershed Protection and Flood Prevention Program**

Authority: Watershed Protection and Flood Prevention Act, Pub.L. 83-566, 16 U.S.C. 1001-1009, 1012; section 13 of the Flood Control Act of 1944, Pub.L. 78-534, 33 U.S.C. 701b-1

Summary: Planning and installation of structural/nonstructural measures to prevent or mitigate flooding in rural areas, improve water quality, and provide for recreation and water supply facilities; river basin surveys and planning. Section 13 of the Flood Control Act of 1944 authorized 11 specific flood control projects.

**Wetland Reserve Program (WRP)**

Authority: Title XII, subtitle D, chapter 1, subchapter C of the Food Security Act of 1985; 16 U.S.C. 3837-3837f, as added by section 1438 of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub.L. 101-624, 104 Stat. 3359, 3584.

Summary: Technical and financial assistance to landowners to develop and implement wetland restoration plans and to protect the restored wetlands through long-term contracts or easements.

**Wildlife Habitat Incentives Program (WHIP)**

Authority: Title XII, subtitle D, chapter 5, section 1240N of the Food Security Act of 1985, 16 U.S.C. 3839bb-1. (Originally authorized by section 387 of the Federal Agriculture Improvement and Reform Act of 1996, Pub.L. 104-127, 110 Stat. 888, 1020.)

Summary: Technical and financial assistance to landowners to develop wildlife habitat.

**IV. Ethics**

General Points to Keep in Mind:

- A. The Office of Government Ethics has developed government-wide ethics regulations pertaining to all federal employees. These regulations are at 5 CFR 2635 and pertain to, among other things: acceptance of gifts, conflicting financial interests, impartiality in performing official duties, misuse of position, and outside activities.
- B. USDA has issued regulations (APMR) governing a variety of issues, including acquisition of property, acceptance of gifts, and recognition of donors to NRCS. See in particular APMR 104-84. 105 – Recognition of Donors; Part 104-18 – Acquisition of Real Property.
- C. USDA has authority to accept gifts under 7 U.S.C. 2269. Under new Departmental Regulations pertaining to acceptance and solicitation of gifts, NRCS and other agencies of the Department have limited authority to accept and solicit gifts from donors, subject to the conditions and limitations provided in the

Departmental Regulations. DR 5200-3. See  
<http://www.ocio.usda.gov/irm/directives/index.html>

- D. Federal employees are prohibited from serving in outside organizations as board member, officer, trustee, general partner, or employee in their official capacity, with limited exceptions. 18 USC § 208 (a). Employees in violation of this statute may be subject to fine/imprisonment under this statute. Exceptions to this prohibition are: a) a statute requires or permits such official participation; b) the organization in which the employee serves releases the employee from fiduciary obligations under state law; c) state law imposes no obligation on a board member; or d) the employee is granted a waiver by the employing agency.

E. Ethics Websites

The following link to the USDA Ethics Office contains relevant information on Departmental ethics regulations: <http://www.usda-ethics.net/rules/issuance.htm>.